

### REMARKS

In the Official Action mailed April 2, 2007, the Office Action Summary indicated that the Office Action was non-final. However, on page 5 of the Official Action, the Examiner indicated that the action was final. The undersigned has treated this action as final and included a request for continued examination with this paper, along with a supplemental information disclosure statement. If the Examiner has intended for this action to be non-final, it is hereby requested that the fee associated with the request for continued examination be refunded.

#### **Claim Status**

Claims 32-35 and 38-39 were pending in the subject application before this amendment. Claims 1-31 and 36-37 have been previously canceled. Claim 40 was previously added. Claims 32, 38 and 40 are amended herein. Claim 39 is cancelled without prejudice. Claims 32-35, 38 and 40 are now pending the subject application after this amendment.

#### **Rejections**

##### *35 U.S.C. §102(b)*

The Examiner has rejected claims 32 and 40 under 35 U.S.C. §102(b) as anticipated by U.S. Pat. No. 5,549,584 to Gross (hereinafter "Gross"). Applicants respectfully request reconsideration of amended claims 32 and 40.

Claim 32 and claim 40 have each been amended to recite "providing a relatively thin and flexible member having a wound contacting surface with holes in the wound contacting surface, a port to be attached to a vacuum source, a plurality of channels extending between the holes and the port, and spacers coupled to the wound contacting surface." Gross fails to disclose any channels extending between holes in a wound contacting surface and the port. The rejection of claims 32 and 40 should be withdrawn on at least this basis.

##### *35 U.S.C. §103(a)*

The Examiner has rejected claims 33-35, 38 and 39 under 35 U.S.C. §103(a) over Gross in view of U.S. Pat. No. 5,735,833 to Olson (hereinafter "Olson"). Claims 33-35 each depend from claim 32. It is believed that the rejection of claims 33-35 is moot in light the discussion of claim 32 above. Applicants respectfully request reconsideration of amended claim 18.

Claim 18 has been amended to recite “the member also having a single port and passageways connecting each of the holes to the port.” Claim 38 has also been amended to recite “coupling the port of the member to a vacuum source.” Gross fails to disclose irrigation of a wound. This deficiency is not cured by Olson. Olson fails to disclose “coupling the port of the member to a vacuum source,” and “coupling the port of the member to an irrigation source” as recited in claim 38. Olson discloses a lavage tip 10 with a liquid port 22 and a suction port 26. Olson, cl. 2, ll. 35-45. Suction is used to “remove irrigating liquid and debrided tissue from within shield 18 during operation of lavage tip 10.” Olson, cl. 2, ll. 46-48. Thus, Olson fails to disclose a “single port” as recited in claim 38. The rejection of claim 38 should be withdrawn on at least this basis.


### Conclusion

In view of the forgoing, it is submitted that this application is in condition for allowance. Allowance is respectfully requested. If the Examiner believes that a telephonic interview would expedite the allowance of this application, he is requested to contact the undersigned for prompt resolution of any outstanding issues.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response, and shortages and other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to file 7175-73441.

Respectfully submitted,

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